

REMARKS

Claims 1-6 are pending in the above-referenced patent application. Claims 7-8 have been canceled and no claims have been added.

In the Office Action, dated December 28<sup>th</sup>, 2004, the Examiner rejected claims 1 and 4-6 under 35 U.S.C. 103(a) as being unpatentable over Melman et al. (U.S. Patent No. 5,359,458, hereinafter, "Melman") in view of "Admitted Prior Art"; and claims 2-3 under 35 U.S.C. 103(a) as being unpatentable over Melman and Admitted Prior Art in view of Anderson, II et al. (U.S. Patent No. 5,495,329, hereinafter, "Anderson"). These rejections by the Examiner are respectfully traversed.

Applicants take no position regarding whether any portion of the specification, particularly the portion referred to by the Examiner as "Admitted Prior Art" (hereinafter called "Description of FIG. 1"), includes any admission of prior art; however, Applicants reserve the right to challenge the characterization of "Admitted Prior Art" by the Examiner at a later date, if Applicants deem it appropriate. For purposes of this response, Applicants believe adequate bases for traversing the rejection exist without the need to currently address this issue.

It is well-established that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, a suggestion or motivation must be shown, either in the cited documents themselves or in knowledge generally available to one of ordinary skill in the art, to modify a cited document or combine two or more cited documents. Second, a reasonable expectation of success in making this combination or modification must be shown. Third, it must be shown that the combination or modification, if proper, contains all of the elements of the claims under rejection. If any of these elements are not met, a successful *prima facie* case of obviousness has not been established.

It is respectfully asserted that Melman and Description of FIG. 1, either alone or in combination, does not contain all of the elements of the rejected claims. Furthermore, the Examiner has provided no suggestion or motivation to modify Melman or Description of FIG. 1. One of ordinary skill in the art having Melman and Description of FIG. 1 before him or her, whether individually or in combination, would be unable to produce the subject matter of the claims, and, therefore, the combination of Melman and Description of FIG. 1, does not render the rejected claims obvious. (It is noted that

Applicants express no opinion on the appropriateness of the proposed combination of Melman and Description of FIG. 1 because it is not needed to overcome the Examiner's rejection; however, Applicants reserve the right to address this issue at a later time if deemed appropriate.)

As just an example, none of the cited documents show or describe calibrating the illumination of an image with calibration parameters. Similarly, Anderson fails to cure this deficiency.

It is noted that many other bases for traversing the rejection could be provided, but Applicants believe that the ground discussed above is sufficient. It is respectfully requested that the Examiner withdraw his rejection as to claim 1.

Claims 2-6 depend from and include all limitations of claim 1, and therefore distinguish from the cited documents at least on the same basis. It is, therefore, respectfully requested that the Examiner withdraw the rejection of these claims also.

The Examiner has rejected claims 7 and 8 under 35 U.S.C 102(b) as being anticipated by Liao (U.S. Patent No. 5,764,493, hereinafter "Liao"). Applicants have canceled claims 7 and 8. Thus, the rejection is moot.

Attorney Docket: 112.P14014

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he or she is invited to contact the undersigned at (503) 640-6475. Reconsideration of this patent application and early allowance of all the claims is respectfully requested.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130.

Respectfully submitted,

Dated: 6-28-05

Gerald O Haynes  
Gerald Haynes  
Reg. No. 32,854

Send Correspondence to:  
5250 NE Elam Young Parkway  
Suite 850  
Hillsboro, OR 97124  
(503) 640.6475